

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TZVI WEISS, et al.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK, PLC,

Defendant  
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: Case No. 05-cv-4622 (CPS) (KAM)  
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JOSHUA FAUDEM, et al.

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK, PLC,

Defendant  
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:  
: Case No. 07-cv-1775 (CPS) (KAM)  
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NATAN APPLEBAUM, et al.

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK, PLC,

Defendant  
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: Case No. 07-cv-916 (CPS) (KAM)  
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**STIPULATION AND ORDER FOR COORDINATION OF DISCOVERY**

**The parties in the above captioned litigations hereby STIPULATE AND AGREE as follows:**

1. No later than December 31, 2007, Plaintiffs will amend the complaint in Weiss, et al v. National Westminster Bank, Plc (the “Weiss Action”) for the sole purpose of adding the named plaintiffs in Faudem, et al. v. National Westminster Bank, Plc (the “Faudem Action”) into the Weiss Action complaint, hereinafter referred to as “the Amended Weiss Complaint.” NatWest’s counsel shall accept service of the Amended Weiss Complaint, and no later than two (2) business days after service of the Amended Weiss Complaint, counsel for the Faudem Action plaintiffs shall file a voluntary dismissal of that action in favor of the Weiss action; thereafter, the Faudem Action docket number (07-CV-1775) will no longer be used. NatWest shall answer the Amended Weiss Complaint within no more than thirty (30) days of service of the same.

2. For the purposes of all defenses related to the timing of the filing of the Faudem Action, Plaintiffs’ claims against NatWest, including, but not limited to, all defenses related to statutes of limitation, statutes of repose, estoppel and laches, the claims of the Faudem Action Plaintiffs shall be treated as having been filed on the date of the filing of the Faudem Action. The parties further stipulate and agree that this Stipulation shall not provide NatWest with any defense related to the Faudem Action Plaintiffs that NatWest would not have possessed had such Plaintiffs remained as plaintiffs in the Faudem Action. It is further agreed that this Stipulation shall not deprive NatWest of any potential defense to the claims asserted by the Faudem Plaintiffs, except as expressly stated herein.

3. For pre-trial purposes only, the Weiss Action and Applebaum, et al. v. National Westminster Bank, Plc (the “Applebaum Action”) will be coordinated. Such coordination shall include the following:

- a. Prior to any party serving notices for depositions in these cases, they shall jointly meet and confer to attempt to agree to the time and place of the deposition;

- b. The depositions will be taken in these cases jointly and the Plaintiffs in the cases shall agree as to which counsel will take the lead at each particular deposition, and they shall abide by reasonable sharing of the role of lead questioner and a fair allocation of questioning time;
  - c. Before the Plaintiffs initiate any written discovery, counsel in the cases will meet and confer and the Plaintiffs will endeavor to serve a joint set of written discovery on the Defendant;
  - d. Status conferences and other pretrial court appearances will generally involve all counsel in all of these cases.
4. Separate dockets will be maintained for the Weiss and Applebaum Actions, and filings shall be made in accordance with the regular procedures of the Clerk of this Court. All communications which are required by the Federal Rules of Civil Procedure to be served on all parties shall be served on all counsel in both the Weiss and Applebaum Actions, as if the two cases were one.
5. This Stipulation and Order shall apply to any related case against NatWest subsequently filed with or transferred to this Court, unless a party objecting to the coordination of such case, or to any other provision of this Order, within 15 days after the date upon which a copy of this Order is mailed to counsel for such party, files an application for relief from this Order, or any provision in this Order, and this Court deems it appropriate to grant such application.

**Communications Between Plaintiffs' Counsel**

6. All communications, including e-mail communications between Weiss and Applebaum counsel, and/or communications by Weiss or Applebaum counsel with any plaintiff

shall be deemed to be protected by the attorney-client privilege and/or work product doctrine, if the privilege or doctrine is otherwise applicable, and all of said persons shall maintain the confidentiality of said communications.

### **Document Production**

7. *Discovery Materials*: Discovery materials produced by the Weiss plaintiffs or the Applebaum plaintiffs that relate solely to damages need not be produced to the other plaintiff group.

8. *Translations*: The cost of translating documents to be used in these cases will be shared by all parties who proffer such translations.

9. *Expert Witnesses*: To the extent possible, Plaintiffs shall present the Court with joint experts, and shall share the fees of any such experts equally.

### **Motions and Briefs**

10. Except where issues uniquely applicable to cases involving one plaintiff group arise, the parties will coordinate all briefing schedules and file all motions and related briefs in all cases on coordinated schedules. To the extent the Defendant continues to be represented by the same counsel, it will be entitled to address particular issues to particular cases, but will incorporate all of its arguments into unified briefs. The Plaintiffs shall make a good faith effort to respond to any motions by the Defendant in a coordinated fashion so as to avoid duplicative arguments. To the extent that Plaintiffs' counsel cannot agree on joint submissions or wish to make non-duplicative arguments or brief issues not raised in any joint submission, they should identify those arguments in any supplemental brief and incorporate all other arguments, to the extent possible, by reference.

**Depositions of Plaintiffs**

11. Defendant's depositions, if any, of the Plaintiffs need not be coordinated as between the Weiss Action and the Applebaum Action plaintiffs. However counsel for all parties shall be notified and invited to attend the deposition of any plaintiff.

Dated: December \_\_, 2007

By: \_\_\_\_\_  
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Counsel for Defendant

ACCEPTED BY THE COURT THIS \_\_\_\_ day of \_\_\_\_\_, 2007.

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